

CONTRACT	
NO.	01-30-A-137783-0406
AMENDMENT NO.	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

A.G. Contract No.: KR05-1273TRN
ECS File No.: JPA 05-045
Project No.: NNA-0-410
Section: I-10 at Davidson Canyon
Project: Purchase Scenic Easement
TRACS No.: H6638 01R
Budget Source Item No.: 75305

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
PIMA COUNTY

THIS AGREEMENT is entered into this date April 24, 2006, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and PIMA COUNTY, acting by and through its CHAIRMAN and BOARD OF SUPERVISORS (the "County").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.
2. The County is empowered by Arizona Revised Statutes § 11-251 and 11-951 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.
3. Congress has authorized appropriations for, but not limited to, the twelve eligible Transportation Enhancement (TE) activities.
4. The State and the County are in mutual agreement to participate in the TE activity 3 using FHWA funding and an Enhancement Reimbursable Grant in, the acquisition and management of scenic property (the "Property") along I-10 at Davidson Canyon, south of Tucson, hereinafter referred to as the "Project". Both parties agree that the County will provide matching funds, be the lead agency of the Project and manage and preserve the scenic view shed of the Property in perpetuity.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 28198
Filed with the Secretary of State
Date Filed: 4-24-06
James K. Brewer
Secretary of State
By: [Signature]

II. SCOPE OF WORK

1. The County shall:

a. Upon execution of this Agreement, provide a copy of the deed and closing statement to show the acquisition of the Property. Revenue generated by any lease of the Property needs to be put back into maintenance or other Title 23 eligible projects.

b. Be responsible for any and all costs of the Project over and above the State's share of \$500,000.00.

c. Be responsible to provide copies of all studies, reports and other materials to the State for review and comment.

d. Be responsible to manage the Property acquired as a result of this Agreement, in perpetuity, and preserve its natural scenic qualities.

e. Acknowledge and agree that the Property shall not be leased for revenue generation except that the County may use the Property for agricultural purposes, grazing, and for the operation of cattle ranches and may lease the Property for similar types of uses, as part of a management plan.

f. Acknowledge and agree that in the future, if a widening or repairs along the Property on I-10 at Davidson Canyon are necessary, access will be granted to the State/ADOT at no cost(s) over the portions of the Property adjacent to the right of way while the work is performed, provided that upon completion of the work the State/ADOT will at its expense restore the Property, including fencing, if any, to substantially the condition that existed prior to such temporary access. If any of the property is needed for the widening, County shall grant such property to the State/ADOT at no cost or credit, provided the property so granted does not have a value in excess of \$500,000.00.

2. The State shall:

a. Review the documents provided, including the deed and closing statement.

b. Upon execution of this Agreement and within thirty-days (30) of receipt of the deed and closing statement, using Federal Funds, reimburse the County in a total amount not to exceed \$500,000.00, as its share of the Project. The State shall have no other direct or indirect responsibilities with respect to the monetary contribution defined herein.

III. MISCELLANEOUS PROVISIONS

1. The State has no direct interest in the Project. The only interest of the State in this Agreement is to provide monetary contribution from Federal Funds, to the Project.

2. The County shall not transfer, sell, or otherwise dispose of all or any part of the Property nor shall it assign its obligations under this Agreement without prior written consent from the State. If the Property is sold without retention by the County of a scenic easement or if the scenic easement is later removed from the Property, the County shall need to refund the \$500,000 to the State.

3. The County agrees to indemnify and save harmless the State, including its departments, officers, and employees, from and against all losses, expenses, damages or claims of any nature whatsoever arising out of the negligence or willful misconduct of the County or its officers or employees in the performance of any of the provisions of this Agreement.

4. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the County cancels this Agreement, the State shall in no way be obligated to maintain said Project.

5. This Agreement shall become effective upon filing with the Secretary of State.

6. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

7. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

11. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:


Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

Pima County Real Property Services
Attn: Janet Russell
201 N. Stone Avenue, 6th Floor
Tucson, AZ 85701
(520) 740-6321

12. Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

PIMA COUNTY


By 
RICHARD ELIAS
Chairman, Pima County Board of Supervisors

STATE OF ARIZONA

Department of Transportation

By 
SUSAN TELLEZ
Contract Administrator

ATTEST: APR 04 2006

By 
LORI GODOSHIAN
Clerk of the Board of Supervisors

G:05-045-Pima County-Scenic Easement-DRAFT-30January2006-slc

ATTORNEY APPROVAL FORM FOR PIMA COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 6th day of February, 2006.

Scott Munn
County Attorney

RESOLUTION OF PIMA COUNTY TO ENTER INTO
AN INTERGOVERNMENTAL AGREEMENT WITH
THE STATE OF ARIZONA FOR REIMBURSEMENT
OF ACQUISITION COSTS FOR THE BAR V RANCH

WHEREAS, Pima County (the “County”) purchased the Bar V Ranch (the “Property”) on February 17, 2005, as part of the 2004 Open Space Bond Program; and

WHEREAS, the Property contains a portion of the scenic Davidson Canyon, visible from Interstate 10, east of Sonoita Highway; and

WHEREAS, the County applied for and was awarded \$500,000 towards the purchase of this Property, via the Federal Highway Administration’s Transportation Enhancement Program; and

WHEREAS, the Arizona Department of Transportation (“ADOT”) administers the program for the Federal Highway Administration; and

WHEREAS, the County has met all of the requirements of the program for reimbursal; and

WHEREAS, the County and the State of Arizona (the “State”) have completed negotiations on an Intergovernmental Agreement to reimburse the County the \$500,000 for the acquisition; and

NOW, THEREFORE, BE IT RESOLVED, that Pima County will enter into an Intergovernmental Agreement with the State of Arizona to be reimbursed for \$500,000 in acquisition costs for the Property, as part of the Transportation Enhancement program. In return for reimbursement, the County shall:

1. Agree not to lease the property for lease revenue generation, except that the County may lease the property for grazing and agricultural purposes.
2. Agree that in the future, if widening or repairs along the Property on I-10 at Davidson Canyon are necessary, access to the Property will be granted to the State/ADOT at no cost, and if any property is needed for the widening, the County will grant such property to the State at no cost up to \$500,000.
3. Agree that the County will not sell or transfer the Property without the consent of the State.

Passed by the Board of Supervisors of Pima County, this 4th day of April, 2006.



Chairman, Pima County Board of Supervisors

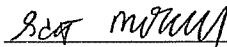
APR 04 2006

ATTEST:

APPROVED AS TO FORM:



Clerk of the Board



Deputy County Attorney

00599-06

<p>TERRY GODDARD Attorney General</p>	<div data-bbox="743 71 933 262" data-label="Image"> </div> <p>OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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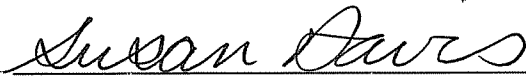
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-1273TRN (**JPA 05-045**), an Agreement between public agencies, i.e., The State of Arizona and Pima County, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: April 17, 2006

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:956535
Attachment